

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #6	CCRB Case #: 201903162	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/26/2019 6:30 AM	Location of Incident: § 87(2)(b)	Precinct: 71	18 Mo. SOL 9/26/2020	EO SOL 5/13/2021	
Date/Time CV Reported Fri, 04/12/2019 11:10 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/12/2019 11:10 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			E S U
2. SGT David Grieco	03830	940216	067 PCT
3. DT2 Matthew Vahey	07959	907488	E S U
4. DTS Terry Avent	01029	932280	E S U

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM James Lukeson	09696	935216	067 PCT
2. POM Fabian Modesto	08846	950897	067 PCT
3. POM Besnik Bojkovic	9214	954556	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT David Grieco	Abuse: Sergeant David Grieco supervised the entry of § 87(2)(b) in Brooklyn.	
B.SGT David Grieco	Abuse: Sergeant David Grieco supervised the search of § 87(2)(b) in Brooklyn.	
C. Officers	Discourtesy: Officers spoke discourteously to individuals.	
D.DT2 Matthew Vahey	Discourtesy: Detective Matthew Vahey spoke discourteously to § 87(2)(b)	
E.DTS Terry Avent	Discourtesy: Detective Terry Avent spoke discourteously to § 87(2)(b)	
F. Officers	Abuse: Officers threatened § 87(2)(b) with the use of force.	
G. Officers	Abuse: Officers threatened § 87(2)(b) with the use of force.	
H. Officers	Abuse: Officers threatened § 87(2)(b) with the use of force	

Officer(s)	Allegation	Investigator Recommendation
I.DT2 Matthew Vahey	Abuse: Detective Matthew Vahey threatened § 87(2)(b) with the use of force.	
J.DTS Terry Avent	Abuse: Detective Terry Avent threatened to use force against § 87(2)(b)	
K.SGT David Grieco	Abuse: Sergeant David Grieco supervised the arrest of § 87(2)(b)	
L.SGT David Grieco	Abuse: Sergeant David Grieco supervised the arrest of § 87(2)(b)	
M.SGT David Grieco	Abuse: Sergeant David Grieco supervised the arrest of § 87(2)(b)	
N.SGT David Grieco	Abuse: Sergeant David Grieco supervised the arrest of § 87(2)(b)	

Case Summary

On April 12, 2019, § 87(2)(b) submitted this complaint with the CCRB via telephone.

On March 26, 2019, at approximately 6:30 a.m., § 87(2)(b) and § 87(2)(b) were in § 87(2)(b) in Brooklyn. Officers from the 67th Precinct and the Emergency Services Unit (ESU), under the supervision of Sgt. David Grieco of the 67th Precinct, executed a search warrant (**Allegations A and B: Abuses of Authority: § 87(2)(g)**). Officers, including Det. Terry Avent and Det. Matthew Vahey of the Emergency Services Unit (ESU), allegedly said, “Get the fuck on the ground” (**Allegations C, D, and E: Discourtesies: § 87(2)(g)**). Officers allegedly said, “Get the fuck on the ground or I’ll shoot” (**Allegation F, G, H: Abuse of Authority: § 87(2)(g)**). Det. Avent allegedly threatened to shoot § 87(2)(b) (**Allegation I: Abuse of Authority: § 87(2)(g)**). Det. Vahey allegedly threatened to shoot § 87(2)(b) (**Allegation J: Abuse of Authority: § 87(2)(g)**). Sgt. Grieco instructed officers to arrest § 87(2)(b) and § 87(2)(b) (**Allegations K, L, M, and N: Abuses of Authority: § 87(2)(g)**). PO Fabian Modesto of the 67th Precinct issued § 87(2)(b) and § 87(2)(b) summonses for possession of marijuana (BR 01) (BR 50).

The investigation obtained BWC footage (BR 03-22). An attorney was consulted for this case.

Findings and Recommendations

Allegation A – Abuse of Authority: Sergeant David Grieco supervised the entry of § 87(2)(b) in Brooklyn.

Allegation B – Abuse of Authority: Sergeant David Grieco supervised the search of § 87(2)(b) in Brooklyn.

It is undisputed that on March 26, 2019, officers from ESU and the 67th Precinct entered and searched § 87(2)(b) pursuant to a search warrant under the supervision of Sgt. Grieco.

§ 87(2)(b) testified that when officers entered her apartment, they damaged her front door, a bedroom door, a closet, a chest of drawers, a television, and the bedframes in two bedrooms. § 87(2)(b) and § 87(2)(b) alleged that officers pointed their guns at them and told them to get to the ground. These allegations have been subsumed as part of the execution of the search warrant.

Sgt. Grieco testified that he supervised the entry and search of the apartment pursuant to a search warrant.

Search warrant #§ 87(2)(b) (BR 49), dated March 20, 2019 and signed by Hon. § 87(2)(b) permitted officers to enter § 87(2)(b) and search for narcotics and weapons.

Articles 690.50 and 690.05 of the Criminal Procedure Law (BR 24-25) permit officers who have obtained a valid search warrant to forcefully enter premises and conduct a full and thorough search for contraband.

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Discourtesy: Officers spoke discourteously to individuals.

Allegation D – Discourtesy: Detective Matthew Vahey spoke discourteously to § 87(2)(b).

Allegation E – Discourtesy: Detective Terry Avent spoke discourteously to § 87(2)(b).

According to the NYPD Legal Bureau, members of ESU were not equipped with BWC when this incident occurred (BR 28). The footage from 67th Precinct officers began after ESU officers had already entered the apartment and handcuffed § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) and § 87(2)(b) all testified that officers used profanity when they entered the apartment. § 87(2)(b) testified that when she first approached the front door, unknown officers said, “Step away from the fucking door,” and “Don’t touch the fucking door.” § 87(2)(b) testified that when she walked to the front door with § 87(2)(b) unknown officers said, “Get down on the fucking floor.” § 87(2)(b) testified that an officer, she did not know who, entered the apartment and said, “Get the fuck down on the floor.” § 87(2)(b) testified that he was in his bedroom when he heard an officer yell, “Get the fuck back,” and, “Get the fuck down.”

As stated above, the search warrant in this case was for narcotics and weapons.

Det. Vahey entered his bedroom, pointed his gun at § 87(2)(b) and said, “Get the fuck down.” § 87(2)(b) testified that Det. Avent entered his bedroom and said, “Get the fuck down.”

Det. Vahey testified that he did not have any recollection of this incident. He may have used the word ‘Fuck’ but did not have a specific recollection of doing so.

Det. Avent testified that he did not have any recollection of this incident. He denied using the word ‘Fuck’ at any point.

The NYPD mission includes a promise to treat every citizen with courtesy, professionalism, and respect. Patrol Guide Procedure 200-02 (BR 26). In Disciplinary Case #796247/04 (BR 27) the NYPD held that “when a police officer uses an otherwise impolite word during a stressful encounter where that officer is attempting to maintain control of the situation, the officer’s verbal slip does not rise to the level of actionable misconduct.”

§ 87(2)(g)

§ 87(2)(g)

Allegation F – Abuse of Authority: Officers threatened § 87(2)(b) with the use of force.

Allegation G – Abuse of Authority: Officers threatened § 87(2)(b) with the use of force.

Allegation H – Abuse of Authority: Officers threatened § 87(2)(b) with the use of force.

Allegation I – Abuse of Authority: Detective Matthew Vahey threatened § 87(2)(b) with the use of force.

Allegation J– Abuse of Authority: Detective Terry Avent threatened § 87(2)(b) with the use of force.

As stated above, according to the NYPD Legal Bureau, members of ESU were not equipped with BWC during this incident (BR 28). The footage from 67th Precinct officers began after ESU officers had already entered the apartment and handcuffed § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) testified that when they first entered, ESU officers – she could not see their faces – told everyone in the apartment, one by one, that if they did not get down onto the ground, they were going to shoot. § 87(2)(b) told them she was not getting on the ground and sat down at the dinner table. § 87(2)(b) sat down on the couch.

§ 87(2)(b) testified that as officers first entered the apartment an unknown officer said, “Get the fuck down on the floor before we start shooting.” She laid down chest-first on the living room floor.

In her sworn statement, § 87(2)(b) testified that unknown officers repeatedly told her to get to the floor when they first entered. She did not allege that any officer threatened to shoot anyone. However, in both her intake statement and a telephone statement, § 87(2)(b) alleged that officers told her not to come to the door or they would shoot.

§ 87(2)(b) testified that Det. Vahey entered his bedroom, pointed his gun at § 87(2)(b) and said, “Get the fuck down or I’m gonna shoot.” Det. Vahey placed § 87(2)(b) into handcuffs.

§ 87(2)(b) testified that Det. Avent entered his bedroom and said, “Get the fuck down or I’ll shoot you.” Det. Avent placed § 87(2)(b) into handcuffs.

Det. Vahey and Det. Avent did not have any recollection of this incident and denied threatening to shoot anyone at any point.

§ 87(2)(b) and § 87(2)(b) were unable to provide identifying information about the officers who allegedly threatened to shoot them. § 87(2)(g)
§ 87(2)(g) Det. Avent and Det. Vahey denied threatening to shoot anyone.

§ 87(2)(g)
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§ 87(2)(g)

Allegation K – Abuse of Authority: Sergeant David Grieco supervised the arrest of § 87(2)(b)

Allegation L – Abuse of Authority: Sergeant David Grieco supervised the arrest of § 87(2)(b)

Allegation M – Abuse of Authority: Sergeant David Grieco supervised the arrest of § 87(2)(b)

Allegation N – Abuse of Authority: Sergeant David Grieco supervised the arrest of § 87(2)(b)

It is undisputed that following the search of § 87(2)(b) Sgt. Grieco ordered officers to take everyone in the apartment to the stationhouse (BR 29).

The first of Sgt. Grieco's BWC videos (BR 04), beginning at 5 minutes and 48 seconds, showed him discuss transporting § 87(2)(b) to the stationhouse. At 14 minutes and 16 seconds, an officer asked § 87(2)(b) if he had the keys to a safe. Sgt. Grieco asked § 87(2)(b) for the keys. At 16 minutes and 55 seconds, Sgt. Grieco asked an officer if there was anything in the safe. The officer responded that there was some marijuana inside. At 28 minutes and 4 seconds, § 87(2)(b) asked Sgt. Grieco why she was being taken to the precinct. He replied, "Because. You're just going to have to come back, alright? So just grab your clothes. Miss come on."

In Sgt. Grieco's second BWC video (BR 17), at 1 minute, Sgt. Charles Schwartz of the 67th Precinct told § 87(2)(b) that after a search warrant everyone was brought back to the precinct pending investigation of what was or was not in the apartment.

PO Bharat Sukhra's BWC (BR 18), at 17 minutes and 45 seconds, showed him bring § 87(2)(b) into the stationhouse. At the front desk, PO Sukhra's partner recovered marijuana from § 87(2)(b) pocket. PO Sukhra's partner stated that he would issue § 87(2)(b) a summons for possession of marijuana.

§ 87(2)(b) alleged the following: after officers entered, Sgt. Grieco asked where § 87(2)(b) was and informed her that they were searching for guns, crack cocaine, and cocaine. § 87(2)(b) said that § 87(2)(b) was with his fiancé. Sgt. Grieco said, "§ 87(2)(b) gotta clear this up." A group of officers handcuffed everyone in the apartment and transported them to the 67th Precinct stationhouse. There, Sgt. Grieco showed § 87(2)(b) photographs of several women and asked if she knew them, which she denied. From approximately 7:00 a.m. to 3:00 p.m., § 87(2)(b) and § 87(2)(b) remained handcuffed in the stationhouse. At approximately 3:00 p.m., Sgt. Grieco entered the cell, took off their handcuffs and released them. Sgt. Grieco informed them that they were held at the stationhouse due to a credible source who said there was crack at her apartment.

§ 87(2)(b) alleged that officers transported everyone in the apartment to the stationhouse. At the stationhouse, Sgt. Grieco explained that the warrant was executed because a credible witness said they saw guns and drugs at the apartment. She was held at the stationhouse until between 2:00 p.m and 3:00 p.m.

§ 87(2)(b) corroborated that she was held at the stationhouse until 3:00 p.m. During that time an unidentified officer told § 87(2)(b) that although they did not find anything, they had to wait until § 87(2)(b) came to the precinct stationhouse before they could be released. Following § 87(2)(b)'s arrival at the stationhouse, the civilians were released.

§ 87(2)(b) alleged that after he was placed into handcuffs, PO Modesto told him that he was going to the stationhouse. PO Modesto escorted § 87(2)(b) into the hall and asked him if he knew the whereabouts of § 87(2)(b). § 87(2)(b) replied that he did not know. Sgt. Grieco took § 87(2)(b) to his bedroom and asked if § 87(2)(b) had the password or the key to the safe. § 87(2)(b) gave Sgt. Grieco the key and told him that there was marijuana and money inside. Sgt. Grieco escorted him out of the bedroom. Officers transported § 87(2)(b) to the 67th Precinct stationhouse, where he was held in a cell with § 87(2)(b). At the stationhouse, Sgt. Grieco told § 87(2)(b) that he was a supervisor that was “running the case.” Shortly before § 87(2)(b) and § 87(2)(b) were released, Sgt. Grieco said that they were going to give § 87(2)(b) and § 87(2)(b) summonses. Sgt. Grieco handed them each a summons and said that the first was for the marijuana in the safe, and the second was for the marijuana recovered in the stationhouse.

§ 87(2)(b) testified that officers transported him to the 67th Precinct stationhouse. During a search at the front desk, an officer recovered a small bag of marijuana in his shorts. § 87(2)(b) was held at the stationhouse for approximately eight hours before he was released.

§ 87(2)(b) testified that he was with § 87(2)(b) when she received a call from officers from the 67th Precinct. They told her that they had § 87(2)(b)'s mother and that if he did not come to the precinct stationhouse, they would send her to Central Booking. § 87(2)(b) and § 87(2)(b) went to the 67th Precinct stationhouse where three officers questioned him about where he was on March 24, 2019. § 87(2)(b) left, but officers kept his family members in the stationhouse for several more hours.

PO Modesto testified that he found marijuana in a safe in § 87(2)(b)'s bedroom closet. A supervisor – identified via investigation as Sgt. Grieco, – decided that everyone in the apartment should be placed under arrest and transported to the 67th Precinct for arrest processing because of the marijuana recovered from § 87(2)(b)'s safe. PO Modesto was not aware of any attempt to get § 87(2)(b) to come to the precinct stationhouse. At approximately 1:30 p.m., a supervisor – he did not remember who – decided that he should void the arrests of § 87(2)(b) and § 87(2)(b). He issued summonses to § 87(2)(b) and § 87(2)(b) for possession of marijuana because they had claimed the marijuana was theirs.

Sgt. Grieco testified that he made the decision to take § 87(2)(b) and § 87(2)(b) to the precinct stationhouse. He did not recall why he made this decision. He “may have” debriefed each prisoner with PO Modesto, the arresting officer, but did not specifically remember doing so. He did not know how any of the arrests in this case were resolved. Sgt. Grieco did not remember telling any officers to hold § 87(2)(b)'s family members at the stationhouse until § 87(2)(b) came to the stationhouse. He did not remember speaking to § 87(2)(b). He did not know any reason that the arrests of § 87(2)(b) and § 87(2)(b) were voided.

PO James Lukeson of the 67th Precinct stated that it was standard practice to detain everyone at the stationhouse during a search warrant whether or not any contraband was recovered. It was standard practice for officers to debrief such prisoners, and then determine at the stationhouse whether they should be arrested, summonsed, or subject of a voided arrest. In this case, PO Lukeson helped PO Modesto void the arrests of § 87(2)(b) and § 87(2)(b) and to issue summonses to § 87(2)(b) and § 87(2)(b). Sgt. Grieco debriefed all five of them.

PO Besnik Bojkovic of the 67th Precinct testified that whenever a search warrant was executed, everyone inside the location was automatically removed to the precinct stationhouse. Depending on

what was recovered, arrests or summonses may be voided.

The 67th Precinct Command Log (BR 48) had entries for the arrests of all five civilians who were brought to the stationhouse. Under each entry, the ‘Charges’ section was left blank. The entries for § 87(2)(b) and § 87(2)(b) noted that they were issued summonses. The entries for § 87(2)(b) and § 87(2)(b) noted that their arrests were voided. Sgt. Grieco was listed as the supervisor for all five arrests.

PO Modesto generated two vouchers for this incident (BR 30). The voucher regarding § 87(2)(b) noted that there were six containers of marijuana, listed as arrest evidence. The voucher regarding § 87(2)(b) noted that there was one Ziplock bag of marijuana, listed as arrest property. PO Modesto was listed as the finder on both vouchers. Neither voucher noted where the marijuana was recovered.

An official seizure of a person must be supported by probable cause. Dunaway v. New York 442 U.S. 200 (1979) (BR 32). In People v. Rodriguez, 104 A.D.2d 832 (1984) (BR 35), the court ruled that upon a lawful search of a hotel room, the defendant was not guilty of criminal possession of a controlled substance because it was out of plain view in an opaque bag behind a windowsill, and because the defendant did not have dominion or control over the contraband. The U.S. Supreme Court has held that it is constitutionally reasonable to require that a citizen remain in their home while officers execute a valid search warrant. Such a detention is permissible because it “is not likely to be exploited by the officer or unduly prolonged in order to gain more information, because the information which the officers seek will normally be obtained through the search and not through the detention,” and, “...the occupant’s detention in his own home can add only minimally to the public stigma associated with the search itself and involves neither the inconvenience nor the indignity associated with a compelled visit to the police station.” Michigan v. Summers 452 U.S. 692 (1981) (BR 33). Though Summers permits officers to detain civilians during the execution of search warrants, those detentions must be confined to the “immediate vicinity” of the premises. Bailey v. United States, 568 U.S. 186 (2013) (BR 34).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 38)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 39)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 40).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 41).
- Sgt. Grieco has been a member-of-service for fourteen years and has been a subject of ninety-nine allegations in thirty-seven cases, eight of which were substantiated.
 - Case #201111996 involved a substantiated allegation of entry of premises. The Board recommended that he receive a Command Discipline. The NYPD imposed Instructions.
 - Case #201207718 involved a substantiated stop allegation. The Board recommended that he receive Charges. The NYPD imposed a Command Discipline.
 - Case #201405351 involved a substantiated entry of premises allegation. The Board recommended that he receive Charges. He was found to be Not Guilty at an NYPD administrative hearing.
 - Case #201800398 involved substantiated allegations of search, threat of summons, vehicle search and vehicle stop. The Board recommended that he receive Charges. The NYPD has not yet imposed discipline.
 - Case #201901422 involved a substantiated allegation of threat of force. The Board recommended that he receive Formalized Training. The NYPD imposed Instructions.
- Det. Avent has been a member-of-service for sixteen years and has been a subject of twenty-four allegations in ten cases, none of which were substantiated.
- Det. Vahey has been a member-of-service twenty-six years and has been a subject of twelve allegations in five cases, one of which was substantiated.
 - Case #9602320 involved a substantiated allegation of physical force. The Board recommended that he receive charges. The NYPD has not yet imposed discipline.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- According to the OCA, § 87(2)(b) has no history of convictions in New York City (BR 42).
- According to the OCA, § 87(2)(b) has no history of convictions in New York City (BR 43).
- According to the OCA, § 87(2)(b) has no history of convictions in New York City (BR 44).
- According to the OCA, § 87(2)(b) has no history of convictions in New York City (BR 45).

- According to the OCA, § 87(2)(b) has no history of convictions in New York City (BR 46).
 - § 87(2)(b) filed a Notice of Claim with the City of New York claiming psychological and physical distress, physical pain and suffering, fear and other trauma, damage to property, deprivation of liberty, and economic loss. She is seeking \$150,000.00 as redress (BR 47). There is no 50H hearing scheduled.
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Squad 6

Investigator:	<u>Mac Muir</u>	<u>Supervising Investigator Mac Muir</u>	<u>05/15/2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Jessica Peña</u>	<u>IM Jessica Peña</u>	<u>5/18/2020</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date